IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12046 of 2002

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

JITENDRAKUMAR RAMANLAL VYAS

Appearance:

1. Special Civil Application No. 12046 of 2002

MR ASHISH M DAGLI for Petitioner No. 1-2

MR BG JANI for Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 07/10/2003

ORAL JUDGEMENT

Heard the learned advocates.

This petition under Article 227 of the

Constitution of India is preferred by the Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation") against the judgment and order dated 11th September, 2002 passed by the learned Assistant Judge, Rajkot in Civil Misc. Appeal no.181 of 1991 arising from the order dated 11th November, 1991 made by the learned Civil Judge (Senior Division), Rajkot below application Exh.5 in Civil Suit no.827 of 1991.

2. Both the learned advocates agree that the respondent is a workman as envisaged under Section 2 (s) of the Industrial Disputes Act, 1947 and the Civil Suit in the subject matter is not maintainable. Learned advocate Mr.Jani states that the respondent - plaintiff will withdraw the Civil Suit no.827 of 1991 pending before the Civil Court at Rajkot. Learned advocate Mr.Dagli states that since filing of the present petition on 6th January, 2003, the respondent - plaintiff has preferred departmental appeal against the order of dismissal from service. The same shall be decided in accordance with law.

3. In above view of the matter, the petition is allowed. The impugned judgment and order dated 11th September, 2002 is quashed and set aside. Rule is made absolute with costs throughout.

It is clarified that on plaintiff's withdrawing the suit, the departmental appeal preferred by the plaintiff shall be decided in accordance with law.

[Miss R.M. Doshit, J.]

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